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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/590,904
Filing Date: June 09, 2000
Appellant(s): JERDING ET AL.

DAVID RODACK
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08/15/08 appealing from the Office action mailed 09/13/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,635,989	ROTHMULLER	6-1997
6,005,565	LEGALL ET AL.	12-1999
6,268,849	BOYER ET AL.	7-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 5-30, 32-37 and 39-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Rothmuller (5,635,989)** in view of **Legall et al (6,005,565)**.

As to claims 63 and 64, note the **Rothmuller** reference figures 1-2, disclose method and apparatus for sorting and searching a television program guide (EPG) and further disclose a programmable television services client device (Integrated Receiver Decoder 'IRD' 10) for enabling a user to search for television program information and a

method for implementing a programmable TV services client device, the client device comprising:

Memory (RAM 20) comprising:

Program information (EPG) corresponding to a plurality of programs; an initial interactive program guide (IPG) arrangement; and a user interface (UI) module (figs.1, 2 and col. 3, line 60-col. 4, line 16); and

A Microprocessor 'MP' 15, configured with the UI information (fig. 2) contained in RAM 20 that includes a guide arrangement for an interactive program guide (IPG), where the guide arrangement is configured to provide a user-selectable search option for television programs in first data (EPG-1, col. 4, lines 29-53); and

The Processor configured with the UI module to associate the program information with the initial IPG arrangement, the processor further configured with the UI module to:

Present the initial IPG arrangement on a display device (see fig.2), the initial IPG arrangement including a channel area (interactive cells DTV 200, CNN 202,...A&E 256+), a first program display area (cells DIRECTV....to 55 DAYS AT PEKING, which displays program(s) associated with each channel) adjacent the channel area, and a browse-by-icon or browse area (interactive cells of varying length area, MAIN MENU, CATEGORIES, TYPES,...CLASSES), col.4, lines 29-53);

Receive a first user input corresponding to selection of the browse area; present a first IPG arrangement on the display device responsive to the first user input (via IR remote by highlighting the program of interest, col. 4, line 54-col. 5, line 3 or via

Keyboard by entering of alphanumeric characters, col. 5, lines 28-39), the first IPG (EPG-1) arrangement comprising a browse-by area that displaces the channel area, the browse-by area having a search option (favorite list, col. 5, lines 4-48);

Receive a second user input corresponding to selection of the search option; present a second IPG arrangement on the display device responsive to the second user input, the second IPG arrangement comprising a user input field that displaces the browse-by area (see fig. 2-4 and col. 4, line 29-col.5, line 3 and line 59-col.6, line 39 and line 60-col.7, line 9);

Receive a third user input corresponding to a search term, the third user input entered through the user input field; search the program information based on the search term; and present a third IPG arrangement on the display device responsive to the search, the third IPG arrangement comprising a second program display area that displaces the user input field, the second program display area comprising a search result comprising the program information for a portion of the plurality of television programs where the search term is in a respective television program title (see fig. 2-4 and col. 4, line 29-col.5, line 3 and line 59-col.6, line 39 and line 60-col.7, line 9), note when a user interacts (by highlighting or inputting a title via a remote control or keyboard, the microprocessor 15 converts the program information stored in the memory 20 into a displayable font data...(col.4, lines 29-37) and displays the time and channel information for each occurrence of a desired program...the information is displayed on the display screen via the same components utilized to display the program guide (col.5, lines 4-48)

Rothmuller discloses various IPG arrangements for each search result, displayed via the same components utilized to display the program guide, but silent to teach where the browse area or browse-by-cells of varying length is the claimed “browse-by-icon” and a user-selectable search option, having browse-by area having a search option and providing various guide arrangements, i.e., Display of fig.2 does not clearly show “...a second program display area....,” responsive to the search option.

However, note the **Legall** reference figs 2-4, discloses integrated search of electronic program guide, Internet and other information resources and further discloses browse-by-con (figs.2-3C, where a user can interact to various icon to display information associated with each icon) a user-selectable search option having browse area and various guide arrangements and additional search options; Power Search area which is also a channel area for selecting channels to be searched, while retaining in a display, the program display area (figs.2 and 3B and col.2, line 57-col.5, line 1+), note that Legall clearly illustrates a display interface of multiple windows, one that displays the current tune channel and second window which includes a channel search area and also a power search area where a user selectable search option are displayed, and further discloses that once the user selects to proceed with the search, e.g., using “go” button 348...the EPG is updated (new EPG search parameters) to reflect those programs that meet the filter criteria, displayed over or in place of the old EPG within the channel area while retaining in a display, the program display area.

Therefore it would have been obvious to one of ordinary skilled artisan at the time of the invention to incorporate the teaching of Legall into the system of Rothmuller

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to display different icons instead of varying cells to enhanced the GUI and display search options in a different window, such as a channel selection area in order not to interfere with other displayed window(s) and furthermore to enable a user to perform a power search or more integrated or text search for specific EPG formats and receive an EPG based on the search.

Claims 2-3 are met as previously discussed with respect to claims 63-64.

Claim 5 is met as previously discussed with respect to claims 63-64.

As to claim 6, the claimed "viewing device..," is met by TV display in fig. 2.

As to claim 7, the claimed "a programmable television services server device," is System Providers (col. 3, lines 14-23, which coupled to IRD via satellite, Cable links, telephone lines, etc. and periodically transmit updates to the IRD.

As to claim 8, Rothmuller further discloses where the EPG parameter corresponds to the program title for each of the plurality of TV programs (col. 4, line 54-col. 5, line 17 and lines 28-48).

Claims 15-16 are met as previously discussed with respect to claim claims 63-64.

As claim 17, Rothmuller further discloses where the user input includes a sequentially input characters related to a TV program title (Star Trek, etc., col. 4, line 54-col. 5, line 3 and lines 28-48).

Claims 18-20 are met as previously discussed with respect to claims 2-3.

Claim 21 is met as previously discussed with respect to claim 17.

Claims 22-24 are met as previously discussed with respect to claims 2-3.

Claim 25 is met as previously discussed with respect to claim 7.

Claims 26-28 are met as previously discussed with respect to claims 2-3.

Claim 29 is met as previously discussed with respect to claim 2-3.

Claim 30 is met as previously discussed with respect to claim 5.

Claims 32-33 are met as previously discussed with respect to claims 2-3.

Claim 34 is met as previously discussed with respect to claims 2-3.

Claim 35 is met as previously discussed with respect to claim 5.

Claim 36 is met as previously discussed with respect to claim 6.

Claim 37 is met as previously discussed with respect to claim 7.

Claim 42, is met as previously discussed with respect to claims 63-64.

Claim 43, is met as previously discussed with respect to claims 63-64.

Claim 44, is met as previously discussed with respect to claim 2-3.

Claim 45, is met as previously discussed with respect to claims 2-3.

Claim 46, is met as previously discussed with respect to claim 5.

Claim 47 is met as previously discussed with respect to claim 17.

Claims 48-50 are met as previously discussed with respect to claims 2-3.

Claim 51 is met as previously discussed with respect to claim 17.

Claims 52-54 are met as previously discussed with respect to claims 2-3.

Claim 55 is met as previously discussed with respect to claims 25.

Claim 56 is met as previously discussed with respect to claims 2-3.

Claim 57 is met as previously discussed with respect to claims 2-3.

Claim 58 is met as previously discussed with respect to claim 5.

As to claim 59, Rothmuller further discloses where the EPG data contains program data files of current and future TV programs (col. 3, line 60-col. 4, line 16 and col. 7, line 45-col. 8, line 1+)

As to claim 60, Rothmuller further discloses where the EPG data is received from System Providers "a server" via satellite, cable or telephone (col. 3, lines 14-23).

Claim 61 is met as previously discussed with respect to claim 59.

Claim 62 is met as previously discussed with respect to claim 60.

4. Claims 9-14 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Rothmuller (5,635,989)** in view of **Legall et al (6,005,565)**, and further in view of **Boyer et al (6,268,849)**

As to claim 9, Rothmuller as modified by Legall teach all the claimed limitation as previously discussed with respect to claim 8 above, but fail to explicitly teach where the time period is selected from a list of two or more time periods displayed within the search format.

However, **Boyer** further discloses searching by time and selecting from two or more time periods displayed (fig 11, 14, Window 866, SELECT TIME OF DAY, MID DAY, AFTERNOON, etc., col. 10, line 40-col. 11, line 13).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Boyer into the system of Rothmuller as modified by Legall to provide the user with a list of time period, relating to the search, to meet specific demands of the user with respect the programs and time of the day, and

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provide the user with a list of program(s) and respective time periods, and enable the user to watch the program any time as desired.

As to claims 10 and 11, Rothmuller as modified by Legall, further teaches the current day, time period, but fail to explicitly teach where a default time period selection consists of current day and the following day.

However, Boyer further discloses time period selection, which includes the current day and the following day (fig 14, Window 866 and col. 11, lines 9-29).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Boyer into the system of Rothmuller as modified by Legall to include a default time period for the current day and the following day as taught by Boyer, to enable the user to search television programs of the next day to know in advance programs of interest.

Claims 12-14 are met as previously discussed with respect to claims 9-11.

As to claims 39-41, Rothmuller as modified by Legall teach all the claimed limitation as previously discussed with respect to claim 31, but fail to teach selecting time periods, etc., which are met as previously discussed with respect to claims 9-11.

(10) Response to Argument

The examiner respectfully disagrees that the rejection should be reversed.

Appellant discusses claim rejections...112 first paragraph, fig.4 of Appellant's disclosure as support for the claimed "BROWSE BY ICON," the prior arts of record and the claimed invention, disagrees with the claim rejection...under 103(a) of claims 2, 3, 5-30, 32-37 and 39-64 and request the rejection be overturned and cites portions of MPEP as to establishing a prima facie case of obviousness (see page 8+ of Appellant's Brief).

Based on further consideration, the rejection under 112 First Paragraph is hereby withdrawn. As to the 103(a) rejection, Examiner respectfully disagrees that the rejection should be reversed since the rejection is proper and meets all the claims limitations as clearly discussed in the above ground(s) of rejection above and the response to arguments below.

As to independent claim 63, Appellant, recites the claim limitations and argues that "...the Final Office Action addresses features not found in the claims in the manner claimed..." that "...Appellants do not claim the 'initial IPG arrangement' includes a browse-by area, but rather, a browse-by icon..." that "...Rothmuller...fail to show a browse-by area, but also fail to disclose that the browse-by area has a search option..." that "...Rothmuller...does not disclose, teach, or suggest the claimed user input field..." that "...Legall fails to remedy the deficiencies of Rothmuller..." etc.(see page 12+ of Appellant's Brief).

In response, Examiner disagrees with assertion for several reasons. Rothmuller discloses in figures 1-2, a method and apparatus for sorting and searching a television program guide (EPG) and further disclose a programmable television services client

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device (Integrated Receiver Decoder 'IRD' 10) for enabling a user to search for television program information and a method for implementing a programmable TV services client device. The IRD-10 includes Memory (RAM 20) which stores Program information (EPG) corresponding to a plurality of programs; an initial interactive program guide (IPG) arrangement; and a user interface (UI) module (figs.1, 2 and col. 3, line 60-col. 4, line 16); The IRD-10, further includes Microprocessor 'MP' 15, configured with the UI information (fig. 2) contained in RAM 20 that includes a guide arrangement for an interactive program guide (IPG) and a guide arrangement configured to provide a user-selectable search option for television programs in first data (EPG-1, col. 4, lines 29-53). Rothmuller further discloses that MP-15 is configured with the UI module to associate the program information with the initial IPG arrangement and further present an initial IPG arrangement on a display device (see fig.2), the initial IPG arrangement including a channel area (interactive cells DTV 200, CNN 202,...A&E 256+), a first program display area (cells DIRECTV....to 55 DAYS AT PEKING, which displays program(s) associated with each channel) adjacent the channel area, and a browse-by-icon or browse area (interactive cells of varying length area, MAIN MENU, CATEGORIES, TYPES,...CLASSES), col.4, lines 29-53). When a user interacts with the various cells or the IPG using a remote control, cursor by highlighting a program of interest or keyboard by entering of alphanumeric characters (col.4, line 54-col.5, line 3 and lines 28-39) to input selection in the browse area cells or EPG cells (channels and programs), the MP-15/Display engine presents a first IPG arrangement on the display device responsive to the first user input, the first IPG (EPG-1) arrangement comprising

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a browse-by area that displaces the channel area, the browse-by area having a search option (favorite list, col. 5, lines 4-48), receives a second user input corresponding to selection of the search option; present a second IPG arrangement on the display device responsive to the second user input, the second IPG arrangement comprising a user input field that displaces the browse-by area (see fig. 2-4 and col. 4, line 29-col.5, line 3 and line 59-col.6, line 39 and line 60-col.7, line 9). Rothmuller further discloses a third user input corresponding to a search term, the third user input entered through the user input field (interactive cell area); search the program information based on the search term; and present a third IPG arrangement on the display device responsive to the search, the third IPG arrangement comprising a second program display area that displaces the user input field, the second program display area comprising a search result comprising the program information for a portion of the plurality of television programs where the search term is in a respective television program title (see fig. 2-4 and col. 4, line 29-col.5, line 3 and line 59-col.6, line 39 and line 60-col.7, line 9), note when a user interacts (by highlighting an interactive cell(s) or inputting a title via a remote control or keyboard, the microprocessor 15 converts the program information stored in the memory 20 into a displayable font data...(col.4, lines 29-37) and displays the time and channel information for each occurrence of a desired program...the information is displayed on the display screen via the same components utilized to display the program guide (col.5, lines 4-48). Rothmuller further discloses that "...provides for multiple programs to be search simultaneously, More specifically, during the title entry process, the viewer may enter multiple titles, either by highlighting multiple

titles or via the keyboard....all occurrences of each program title are identified on the display screen (col.5, lines 40-48). Rothmuller discloses various IPG arrangements for each search result, displayed via the same components utilized to display the program guide, but silent as to where the browse area or browse-by-cells of varying length, is the claimed "browse-by-icon" and a user-selectable search option, having browse-by area having a search option and providing additional guide arrangements, i.e., fig.2 does not clearly show "...a second program display area....," responsive to the search option.

However, in the same field of endeavor, **Legall** reference, figs 2-4, discloses integrated search of electronic program guide, Internet and other information resources and further discloses browse-by-con (figs.2-3C, where a user can interact to various icon to display information associated with each icon) a user-selectable search option having browse area and various guide arrangements and additional search options; Power Search area which is also a channel area for selecting channels to be searched, while retaining in a display, the program display area (figs.2 and 3B and col.2, line 57- col.5, line 1+), note that Legall clearly illustrates a display interface of multiple windows, one that displays the current tune channel and second window which includes a channel search area and also a power search area where a user selectable search option are displayed, and further discloses that once the user selects to proceed with the search, e.g., using "go" button 348...the EPG is updated (new EPG search parameters) to reflect those programs that meet the filter criteria, displayed over or in place of the old EPG within the channel area while retaining in a display, the program

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display area. As clearly discussed above, Examiner met all the claims limitations, including the claimed "browse-by icon" which Examiner previously referred to as Browse-by area. Accordingly the combination of Rothmuller in view of Legall is deemed proper, meets all the claims limitations and should be sustained. Clearly all of the elements of the claims were known in the art and could have been combined by well known programming techniques. This would not have changed any functions and supplied the user the ability to search for more data. Browsing is well known, and to say that an "icon" that allows this function is non-obvious is not well taken.

As to independent claim 64, which recites similar claim limitations as independent claim 63, Appellant recites claims and presents similar arguments as independent claim 63 (see page 18+ of Appellant's Brief). As clearly discussed above in response to arguments of claim 63, Examiner met all the claims limitations, including the claimed "browse-by icon" which Examiner previously referred to as Browse-by area. Accordingly the combination of Rothmuller in view of Legall is deemed proper, meets all the claims limitations and should be sustained.

As to the claim rejection...103(a) of claims 9-14 and 39-41, i.e. Rothmuller in view of Legall and further in view of Boyer, Appellant argues that "...Rothmuller in view of Legall fails to disclose, teach....features of independent claims 63 and 64...Boyer fails to remedy...features...and the rejection should be overturned and that "...a prima facie for

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obviousness has not been made against Appellant's claims...(see page 23+ of Appellant's Brief).

In response, Examiner disagrees. Examiner notes Appellant's arguments, however Rothmuller in view of Legall meets independent claims 63 and 64 including the various dependent claims as discussed above, but silent as to the claimed limitations of claims 9-14 and 39-41, i.e. "...where the time period is selected from a list of two or more time periods displayed within the search format..." and "...where a default time period selection consists of current day and the following day." However in the same field of endeavor, Boyer discloses searching by time and selecting from two or more time periods displayed (fig 11, 14, Window 866, SELECT TIME OF DAY, MID DAY, AFTERNOON, etc., col. 10, line 40-col. 11, line 13) and further discloses time period selection, which includes the current day and the following day (fig 14, Window 866 and col. 11, lines 9-29). Hence the combination is proper, meets all the claims limitations and should be sustained.

As to Appellant's argument that is not obvious to combine the prior arts of record, Examiner disagrees. As discussed above Rothmuller meets most of the claimed limitations including generating two or more menus, i.e. searching the EPG for a single, multiple titles, etc., and generating and displaying respectively search result(s) (channel, start time, etc. information) on the display screen (col.5, lines 4-48), creating favorite list and search to display favorite list option, searching/displaying on-screen message

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listing all future programs of selected favorite list with their respective channels and start times (col.5, lines 52-col.6, line 39 and col.7, line 40-col.8, line 1+), displaying a browse area of interactive cells varying lengths, each representing different information (see fig.2 and col.4, lines 43-53), etc. Rothmuller is silent as to the claimed browse-by icon and does not clearly show the arrangement of the IPG. However, this deficiencies are disclosed in Legall, which discloses an integrated IPG with various guide arrangement and displaying a search result as separate window, etc. In any event, the Appellant is reminded that a reference can be relied upon for all that would have been reasonably suggested to one of ordinary skill in the art, including non-preferred embodiments. See MPEP 2123. Hence, while Rothmuller teaches preferred or alternate embodiments, Rothmuller system teaches most of the claims limitations. The only teaching absent is the claimed browse-by icon and arrangement of the IPG, for which Legall was relied upon. Furthermore, a prima facie case of obvious is made because all of the elements are well known (as shown in the prior art), and could be combined by known methods. This would result in the predicted results of enhancing the GUI with additional well know graphics/animations. Hence the 103(a) rejection is proper, meets all the claims limitations and should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,

/Annan Q Shang/

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